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SUBJECT: Guangdong IPR: Enforcement Efforts in 2005

REF: A) Guangzhou 13563; B) 05 Guangzhou 23057

(U) This document is sensitive but unclassified. Please protect accordingly.

¶1. (U) Summary: Guangdong officials praised their intellectual property rights (IPR) enforcement efforts and highlighted Guangdong enterprises' IP creation in the annual white paper on IPR enforcement and development. Guangdong courts concluded 94 IPR-related criminal cases in 2005, involving 232 individuals. The courts also completed 3,316 IPR-related civil cases, up 83 percent from 2004. The province has designated eight local courts to handle IPR cases, more than any other province. According to the report, all provincial offices and large municipal offices are now using legal software, while smaller cities will complete the transition by the end of 2006. End Summary.

¶2. (U) Econoff attended an April 20 press conference hosted by Guangdong IP agencies to publicize the province's 2006 white paper on IPR protection and development. Post has reported separately on Guangzhou's IPR white paper (ref A) and will report on Shenzhen's when it is released.

Focus on Foods, Electronics, and Trade Fairs

¶3. (U) Guangdong's white paper describes Guangdong IPR enforcement efforts from September 2004 to the end of 2005 as a "special campaign" guided by the Guangdong IPR Working Group. During this period, officials targeted counterfeit food and drugs, electronics, and household appliances. Optical discs were cited as a key product throughout the report, particularly compressed DVDs because of their high storage volume. Priority venues for enforcement included wholesale markets, supermarkets, and trade fairs. The report listed Guangzhou, Shenzhen, Foshan, and Dongguan as priority regions. The Public Security Bureau (PSB)'s Mountain Eagle campaign, which lasted from November 2004 through November 2005, was directed at protecting well-known trademarks of products that are closely related to people's daily life or health (ref B). Guangdong officials have since announced the extension of the Mountain Eagle campaign through the end of 2006.

Criminal Cases and PSB Investigations

¶4. (U) According to the white paper, Guangdong courts concluded 94 criminal cases in 2005, involving 232 individuals. Guangdong public security offices investigated 426 criminal IPR cases in 2005, solving 331 and arresting 1,207 suspects. Approximately one-third of these cases were trademark cases generated by the Mountain Eagle campaign. The report highlighted cases involving Viagra, Hennessy, and a Jieyang VCD production line in which 12 suspects were arrested. The PSB seized a total of 15 CD production lines in 2005.

Case Transfers

¶5. (U) Guangdong AIC offices transferred 17 cases to the PSB in 2005, which involved 17 suspects. Some of these cases included counterfeit products of Nike, Adidas, and Coach. According to the report, Guangdong Copyright offices transferred 51 IPR-related cases to the PSB for criminal prosecution in 2005, involving 57 suspects. A June 2005 campaign against A/V products in Guangzhou accounted for nine of these case transfers, as well as the closure of 67 warehouses, eight wholesale locations, and 29 transport centers.

Civil Cases

¶6. (U) Guangdong courts concluded 3,316 IPR-related civil cases in 2005, up 83 percent from 2004. The report boasts that 45 percent of IPR cases in Guangdong courts were settled by mediation, including 58 percent of cases in the Shenzhen Intermediate Court.

¶7. (U) Guangdong has designated eight local courts (courts of first instance) -- more than any other province -- to handle IPR cases in an effort to alleviate the workload of intermediate courts. The report states that these courts, two of which are located in Guangzhou and Shenzhen, concluded 286 IPR-related cases in 2005.

Software Legalization

¶8. (U) The report states that by the end of 2005 all municipal governments in Guangdong had "basically finished the work of software legalization." At the press conference, an IPO official clarified that all provincial offices and large municipal offices are now using legal software. Smaller cities, as well as county- and district-level offices, will complete the transition by the end of ¶2006.

Customs

¶9. (U) Guangdong Customs officials seized 521 cases in 2005, up 11 percent from 2004. 516 of these cases were exports and 508 involved trademarks. In export enforcement, Guangdong Customs targeted trademark counterfeiting and CD piracy. Sixteen of the Customs cases involved large-scale CD counterfeiting. Foreign brands protected include Nike, Pfizer, Motorola, Disney, Philips, Canon, and Citizen. Guangdong and Hong Kong customs authorities also conducted nine joint enforcement actions in border cities.

Trade Fairs

¶10. (U) The two sessions of the Canton Trade Fair in 2005 saw 375 patent infringement cases, 462 trademark cases, and 45 copyright cases, according to the report. The April 2006 Canton Trade Fair saw 322 patent infringement cases, 139 trademark cases, and 11 copyright cases, according to a

trade fair representative. (Note: According to a contact, the trade fair's method of recording complaints changed in ¶2006. Previously, authorities recorded only one complaint even if exhibitors infringed on multiple patents, trademarks, or copyrights. Currently, each infringement is calculated as one complaint. End note)

¶11. (U) The Guangdong white paper highlighted the following trade fairs as the most important in the province. All of them include IPR complaint offices staffed by enforcement authorities (typically the Intellectual Property Office [IPO] or the Administration of Industry and Commerce [AIC]). (Note: Draft trade fair regulations would require an IPR complaint desk to be onsite during fairs of three or more days. End note).

Canton Trade Fair (Guangzhou)

China Int'l Toys and Gifts Fair (Guangzhou)

Guangdong Int'l Beauty, Hairdressing, and Cosmetics Expo (Guangzhou)

China Small and Medium-Size Enterprise Fair (Guangzhou)

China Int'l Expo of A/V Industry Fair (Guangzhou)

South China Book Festival (Guangzhou)

Guangzhou Int'l Civil Engineering Expo (Guangzhou)

China Int'l High-Tech Fair (Shenzhen)

China Pottery Expo (Foshan)

Textile, clothing, and furniture fairs (Dongguan)

Patent and Trademark Applications

¶12. (U) The white paper states that Guangdong had the most patent applications and grants of any province in China in 2005 for the 11th consecutive year. Patents applications were up 38 percent in 2005, totaling 72,220, accounting for 19 percent of the national total. Guangdong saw 102,998 trademark applications in 2005 -- again the highest in China for the 11th consecutive year.

¶13. (U) Guangdong enterprises received 20 "China Well-Known Trademarks" in 2005, and currently have a total of 56 -- ranking second nationwide. Seventy-three Guangdong enterprises received the title "China Famous Brand", bringing the total to 165. This brings Guangdong's share to 17.8 percent of China's total, ranking Guangdong first nationwide for five consecutive years. (Note: This jump in well-known trademarks is part of a Chinese campaign to promote branding. End note).

¶14. (U) Eight Guangdong products, including Liusha pearls, Qindou mangoes, and Yugonglou pineapples, were given geographic indicator trademarks. This brings the total to 14, ranking fourth nationwide.

Public Education

¶15. (U) The report also highlights three universities and one institute in Guangzhou which have set up IPR schools: Jinan University, Zhongshan University, South China University of Technology and Guangdong University of Finance. The report also mentions ongoing training and joint actions with Hong Kong IPR authorities, including an "expert group on IPR protection", a program on small and medium-size enterprise development, the "No Fakes" campaign for retail businesses, and a cooperative mechanism for handling cross-border IPR cases. The most significant IPR-related event in Guangdong was a three-day seminar on IP

education in China jointly hosted by the World IP Organization (WIPO) and the Guangdong IPO, though China has not yet signed on to the WIPO treaties.

¶16. (U) The report emphasizes the importance of public education through commercial media, and lists the following media channels that were used in 2005 (sponsoring office is listed in parentheses):

Advertisements on Guangdong TV (Guangdong IPO)

Documentaries on CCTV and Guangdong TV (Guangdong PSB)

A five-episode TV series on Shenzhen television (Shenzhen IPO)

Advertisements on trademark protection on Dongguan television (Dongguan AIC)

IPR publicity in the Nanfang Daily (one of Guangdong's largest newspapers) (Guangdong IPO and AIC)

Comment

¶17. (SBU) The Guangdong IPO press conference was largely a ceremonial occasion, taken up mostly by an IPO official reading from the white paper. Though the report is largely a laudatory summary of enforcement actions, it does offer specific examples of prominent cases, important trade fairs, and types of media utilized in public education campaigns. The report lacked detailed statistics, however, particularly on criminal cases and transfers by type of infringement. Post has since submitted a request to Guangdong authorities for a breakdown of IPR-related criminal cases by code of law for 2004 and 2005.

¶18. (SBU) Business contacts acknowledge that Guangdong is doing more to crack down on piracy and counterfeiting. However, virtually all of our contacts believe IPR violations are increasing and product quality is much better, making it more difficult to differentiate between the original product and a high-quality fake. Of course, large quantities of poor-quality fakes are still in the markets in China, as well as exported.

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